

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|---------------------------|---|---|
| UNITED STATES OF AMERICA, |) | Case No.: 5:07 CR 409-15 |
| |) | |
| Plaintiff |) | JUDGE SOLOMON OLIVER, JR. |
| |) | |
| v. |) | |
| |) | |
| DONOVAN NEWBY, |) | <u>ORDER ACCEPTING PLEA</u> |
| |) | <u>AGREEMENT, JUDGMENT AND</u> |
| |) | <u>REFERRAL TO U. S. PROBATION</u> |
| Defendant |) | <u>OFFICE</u> |

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Kenneth S. McHargh, regarding the change of plea hearing of , which was referred to the Magistrate Judge with the consent of the parties.

On November 15, 2007 the government filed a forty-one count indictment, charging Defendant, Donovan Newby, with Conspiracy to Possess and Distribute at Least Five Kilograms or More of Cocaine in violation of Title 21 United States Code, Section 846. On December 5, 2007, Defendant Newby was arraigned and entered a plea of not guilty before Magistrate Judge James S. Gallas. On July 16, 2008, Magistrate Judge Kenneth S. McHargh received Defendant Newby's plea of guilty to count 41 of the Superseding Indictment and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of

guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Defendant Newby is found to be competent to enter a plea and to understand his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Defendant Newby is adjudged guilty to Count 41 of the Superseding Indictment, in violation of Title 21 United States Code, Section 846. Sentencing will be on October 15, 2008, at 11:00 a.m. in Courtroom 17-A, Carl B. Stokes United States Court House, 801 West Superior Avenue, Cleveland, Ohio.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR. _____
UNITED STATES DISTRICT JUDGE